

Federal Acquisition Regulation

28.311-1

(d) To qualify for a self-insurance program, a contractor must demonstrate ability to sustain the potential losses involved. In making the determination, the contracting officer shall consider the following factors:

(1) The soundness of the contractor's financial condition, including available lines of credit.

(2) The geographic dispersion of assets, so that the potential of a single loss depleting all the assets is unlikely.

(3) The history of previous losses, including frequency of occurrence and the financial impact of each loss.

(4) The type and magnitude of risk, such as minor coverage for the deductible portion of purchased insurance or major coverage for hazardous risks.

(5) The contractor's compliance with Federal and State laws and regulations.

(e) Agencies shall not approve a program of self-insurance for catastrophic risks (e.g., see 50.403, Special procedures for unusually hazardous or nuclear risks). Should performance of Government contracts create the risk of catastrophic losses, the Government may, to the extent authorized by law, agree to indemnify the contractor or recognize an appropriate share of premiums for purchased insurance, or both.

(f) Self-insurance programs to protect a contractor against the costs of correcting its own defects in materials or workmanship shall not be approved. For these purposes, normal rework estimates and warranty costs will not be considered self-insurance.

[48 FR 42286, Sept. 19, 1983, as amended at 55 FR 3883, Feb. 5, 1990; 66 FR 2131, Jan. 10, 2001]

28.309 Contract clauses for workers' compensation insurance.

(a) The contracting officer shall insert the clause at 52.228-3, Workers' Compensation Insurance (Defense Base Act), in solicitations and contracts when the Defense Base Act applies (see 28.305) and—

(1) The contract will be a public-work contract performed outside the United States; or

(2) The contract will be approved or financed under the Foreign Assistance Act of 1961 (Pub. L. 87-195) and is not excluded by 28.305(b)(2).

(b) The contracting officer shall insert the clause at 52.228-4, Workers' Compensation and War-Hazard Insurance Overseas, in solicitations and contracts when the contract will be a public-work contract performed outside the United States and the Secretary of Labor waives the applicability of the Defense Base Act (see 28.305(d)).

28.310 Contract clause for work on a Government installation.

(a) Insert the clause at 52.228-5, Insurance—Work on a Government Installation, in solicitations and contracts if a fixed-price contract is contemplated, the contract amount is expected to exceed the simplified acquisition threshold, and the contract will require work on a Government installation, unless—

(1) Only a small amount of work is required on the Government installation (e.g., a few brief visits per month); or

(2) All work on the Government installation will be performed outside the United States and its outlying areas.

(b) The contracting officer may insert the clause at 52.228-5 in solicitations and contracts described in (a)(1) and (2) above if it is in the Government's interest to do so.

[48 FR 42286, Sept. 19, 1983, as amended at 60 FR 34759, July 3, 1995; 61 FR 39190, July 26, 1996; 68 FR 28083, May 22, 2003]

28.311 Solicitation provision and contract clause on liability insurance under cost-reimbursement contracts.

28.311-1 Contract clause.

In accordance with agency acquisition regulations, the contracting officer shall insert the clause at 52.228-7, Insurance—Liability to Third Persons, in solicitations and contracts, other than those for construction contracts and those for architect-engineer services, when a cost-reimbursement contract is contemplated.

[55 FR 52793, Dec. 21, 1990. Redesignated and amended at 61 FR 2639, Jan. 26, 1996]